



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

from what fell from my Lord Chief Justice Pemberton; and when I can answer that case, I shall be able to answer myself very much for that which I am doing. Suppose the proviso had been thus penned, 'and if Thomas die without issue male, living Henry, so that the earldom of Arundel descend upon Henry, then the term of two hundred years limited to him and his issue shall utterly cease and termine, but then a new term of two hundred years shall arise and be limited to the same trustees for the benefit of Charles in tail,' this he thinks might have been well enough, and attained the end and intention of the family, because then this would not be a remainder in tail upon a tail, but a new term created. Pray let us so resolve cases here that they may stand with the reason of mankind, when they are debated abroad. Shall that be reason here that is not reason in any part of the world besides? I would fain know the difference why I may not raise a new springing trust upon the same term as well as a new springing term upon the same trust; that is such a chicanery of law as will be laughed at all over the Christian world." Further on in the same case the Lord Chancellor said: "All men are agreed (and my Lord Chief Justice told us particularly how) that there is a way in which it might be done, only they do not like this way; and I desire no better argument in the world to maintain my opinion than that." *Duke of Norfolk's Case*, 3 Chan. Cas. 1.

If the decision in *Woodall v. Bruen* be sound it must follow that all mortgages not expressly limited to be foreclosed within the perpetuity term, all provisions in articles of incorporation permitting the corporation to levy assessments on stock or retire stock on terms, all options not expressly limited to the perpetuity term (which in most states would not permit even one day, the term being lives and infancy), and all wills, devises, and bequests, are utterly and absolutely void. To discern why this would render all wills void it is only necessary to remember that all persons to whom anything is given by will have an option to accept or reject the gift, which option may be exercised by the donee himself or by his heir after him. Before we pull the heavens down, let us sit and think a little.

J. R. R.

---

EXPATRIATION RESULTING FROM MARRIAGE TO ALIEN HUSBAND.—The recent case of *Mackenzie v. Hare*, 36 Sup. Ct. —, presents an interesting question of expatriation, and incidentally a possible dilemma for women voters. Plaintiff, a woman born and residing in California, brought mandamus against the election commissioners to compel her registration as a voter. Their reason for refusing her suffrage was that plaintiff has married a subject of Great Britain, and under a statute of Congress, passed March 2, 1907, any American woman who marries a foreigner takes the nationality of her husband. Plaintiff and her husband were still residing in California. She complained that the statute was unconstitutional as depriving her of her citizenship without her consent. The Supreme Court of the United States held that the power of Congress to enact this law was incidental

to its right to regulate foreign relations, and that the change of citizenship, under the circumstances, took place with the consent of the citizen.

The case is interesting as a development of the right of expatriation and change of citizenship. The doctrine was early developed, perhaps as an incident to the feudal system (*Juando v. Taylor*, Fed. Cas. No. 7558, 2 Paine, 652), that a person could not of his own motion change his allegiance from one sovereign to another. This was the doctrine of the common law, and, according to Chancellor KENT, was the attitude of the early decisions in the federal courts. The question does not seem to have come up squarely in the Supreme Court, but there are intimations that such was the view of the court. *Shanks v. Dupont*, 28 U. S. (3 Pet.), 242, 7 L. Ed. 666. The case of *United States v. Gillies*, Fed. Cas. No. 15206, decided in 1815, considered the question squarely and decided that a citizen of the United States could not throw off allegiance to this country without its consent. On the other hand, it seems to be admitted in *Talbot v. Jansen*, 3 Dall. 133, 1 L. Ed. 540, decided in 1795, that a citizen may expatriate himself, provided he evidences an intention to do so by some overt act such as removal to a foreign land and continued residence there, and this without the consent of his native government. That view was clearly recognized and applied in 1818 in *Juando v. Taylor*, supra. There seems thus to have been some difference of opinion as to whether the citizen possessed the inherent right to renounce his allegiance. In 1850, *Beck v. Gillis*, 9 Barb. (N. Y.) 49, still regarded as unsettled the question whether a person can dissolve that relation to his country. This adherence of the courts to the doctrine of perpetual allegiance, so far as they adhered to it, for a time placed our country in an inconsistent position as respects our international relations. By the War of 1812 we asserted that Great Britain could not insist on the perpetual allegiance of her one-time subjects; she was forced to admit that her citizens could expatriate themselves, and become subjects of the United States. Yet at the same time, and for many years afterward, our courts denied, or at least doubted, that our citizens could cast off allegiance to this country. The matter was, however, put to rest by a statute of Congress in 1868, which recited that expatriation was an inherent right of all citizens. All doubt was cleared by this act. But it is questionable whether expatriation can be accomplished by any act short of actual removal to and residence in a foreign country. *Comitis v. Parkerson*, 56 Fed. 556. As regards the citizenship of married women, it seems to have been recognized that a married woman may have a national allegiance distinct from that of her husband. Her common law incapacity existed only with relation to her civil rights, and did not extend to political rights. *Shanks v. Dupont*, supra; *Comitis v. Parkerson*, supra. The fact, therefore, that she married an alien did not *ipso facto* confer upon her the citizenship of her husband; *idem*. However, like any other citizen, she could expatriate herself, if she did acts to evidence an intention to do so. The mere marriage was not regarded as sufficient indication of such an intent; but if it was followed by removal to the country of her alien

husband and residence there, that was enough to establish the intention, and she was regarded as expatriated. *Jennes v. Landes*, 84 Fed. 73; *Ruckgaber v. Moore*, 104 Fed. 947; 31 Civ. Proc. R. (N. Y.) 310. That seems to have been the status of the law until the enactment of the statute considered in the instant case. This statute, in effect, makes mere marriage conclusive evidence of intent to transfer allegiance. No other act is necessary to establish that intent. This cannot be called an enforced transfer, for the doing of the act necessary to constitute change must be regarded as at will. Looked at from another view-point, the effect of this act is, at least as regards citizenship between this and other nations, to deprive the *feme covert* of her independent political status. It assimilates the political status of the wife to that of the husband. As her civil rights were once, for reasons of public policy, identical with those of her husband, so this statute, for reasons of international public policy, merges her political rights. That Congress has the power to do this would seem to follow as an incident to its general power to regulate international relations. The statute may well have been necessary to prevent foreign complications or to define international relations. And that was the view taken by the court.

W. W. S.

---

THE REGULATION OF ADVERTISING SIGNS BY MUNICIPAL CORPORATIONS UNDER THE POLICE POWER.—In a recent Illinois case, *Haskell v. Howell*, 109 N. E. 992, the right of a municipal corporation, which had prohibited the sale of intoxicating liquor under the local option law, to pass an ordinance making the advertisement of intoxicating liquor, on or about any building or premises within the corporate limits, a nuisance, was denied. Haskell, the complainant, leased a lot of land in the city of Villa Grove from defendant Howell for a term of five years. A sign board was erected on this lot and a sign, "Demand Fecker Beer.—Brewed at Danville, Illinois," was placed thereon. The city of Villa Grove subsequently passed an ordinance, which in §7 prohibited individuals from displaying, maintaining, or posting on private property within the corporate limits any sign or advertisement of any wholesale or retail liquor dealer, and declared the same to be a nuisance. Howell, at the direction of the mayor of the city, tore down the bill board and sign, and both Howell and the city refused to permit the same to be again erected. The bill of complaint was filed for a specific performance of the contract of lease and for damages. By stipulation between the parties the only question for decision was the validity of §7 of the ordinance; the trial court upheld the ordinance and dismissed the bill, whereupon the complainant appealed to the Supreme Court, which reversed the decree below.

It was argued by the appellees that the power to pass such an ordinance is implied as incidental to the power to regulate and prohibit the sale of intoxicating liquors. The court declared this argument untenable, as there was no reasonable connection between the power to prohibit the sale of intoxicating liquor and the power to prohibit the advertising of